

WILSON, RYAN & CAMPILONGO
115 Sansome Street, Suite 400
San Francisco, California 94104

1 ANDREW H. WILSON, ESQ., State Bar #063209
LINDA M. FONG, ESQ., State Bar #124232
2 WILSON, RYAN & CAMPILONGO
115 Sansome Street, Suite 400
3 San Francisco, California 94104
(415) 391-3900
4 (415) 954-0938 (fax)

5 Laurie J. Bartilson, Esq., State Bar #139220
MOXON & BARTILSON
6 6255 Sunset Boulevard, Ste. 2000
Hollywood, CA 90028
7 (213) 960-1936
(213) 953-3351 (fax)

2-3-96
Ha

8 Attorneys for Plaintiff
9

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF MARIN

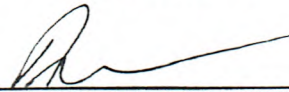
13 CHURCH OF SCIENTOLOGY INTERNATIONAL,)	Case No. 157 680
a California not-for-profit)	
14 religious corporation,)	[CONSOLIDATED]
)	
15 Plaintiff,)	NOTICE OF ENTRY OF ORDER
)	RE MOTION OF PLAINTIFF
16 v.)	FOR SUMMARY ADJUDICATION
)	OF ISSUES
17 GERALD ARMSTRONG, et al.,)	
)	
18 Defendants.)	
)	

19 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

20 PLEASE TAKE NOTICE that on January 24, 1996 the attached Order
21 Re Motion of Plaintiff for Summary Adjudication of Issues was signed
22 by the Honorable Gary W. Thomas and filed in the above-entitled
23 court on January 30, 1996.

24 DATED: February 1, 1996

WILSON, RYAN & CAMPILONGO

25
26 By: 
27 ANDREW H. WILSON,
Attorneys for Plaintiff CHURCH
28 OF SCIENTOLOGY INTERNATIONAL

1-30-96

SCI02003

FILED

JAN 30 1996

BONNIE J. HANCOCK
MARIN COUNTY CLERK
BY: E Keswick Deputy

1 ANDREW H. WILSON, ESQ., State Bar #063209
 LINDA M. FONG, ESQ., State Bar #124232
 2 WILSON, RYAN & CAMPILONGO
 115 Sansome Street, Suite 400
 3 San Francisco, California 94104
 (415) 391-3900
 4 (415) 954-0938 (fax)

5 LAURIE J. BARTILSON, ESQ., State Bar #139220
 MOXON & BARTILSON
 6 6255 Sunset Boulevard, Ste. 2000
 Hollywood, CA 90028
 7 (213) 960-1936
 (213) 953-3351 (fax)

8
 9 Attorneys for Plaintiff
 CHURCH OF SCIENTOLOGY INTERNATIONAL

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF MARIN

13	CHURCH OF SCIENTOLOGY INTERNATIONAL,)	Case No. 157 680
14	a California not-for-profit)	
14	religious corporation,)	[CONSOLIDATED]
15	Plaintiff,)	<i>Gert</i>
16	v.)	[PROPOSED] ORDER RE MOTION
17	GERALD ARMSTRONG, et al.,)	OF PLAINTIFF FOR
18	Defendants.)	<i>Sum of Ad. of ISSUES</i>
19)	DEPT: 1
20)	<i>Summary of Adjudication</i>
21)	Trial Date: None
22)	
23)	
24)	
25)	
26)	
27)	
28)	

WILSON, RYA CAMPILONGO
115 Sansome Street, Suite 400
San Francisco, California 94104

1 This matter came on for hearing on December 1, 1995, on motion
2 of Plaintiff Church of Scientology International for (1) Summary
3 Adjudication of the First Cause of Action of Armstrong's First
4 Amended Complaint; (2) Severance; (3) Dismissal of Unadjudicated
5 Claims; and (4) Entry of Final Judgment.

6 Plaintiff Church of Scientology International appeared by its
7 attorneys, Andrew H. Wilson of Wilson, Ryan & Campilongo and Laurie
8 J. Bartilson of Moxon & Bartilson. Defendant Armstrong appeared by
9 his attorney, Ford Greene. Having read and considered the moving
10 and opposing papers, and the evidence and arguments presented
11 therein and at the hearing, and good cause appearing:

12 IT IS ORDERED:

13 1. The Motion of Plaintiff for Summary Adjudication of the
14 First Cause of Action of the Armstrong's First Amended Cross-
15 complaint is DENIED. As to the first cause of action of defendant's
16 cross-complaint, plaintiff has failed to meet its burden of showing
17 that the Court has determined the enforceability of paragraphs 7I
18 and 18E of the Settlement Agreement. The motions directed at the
19 fourth, sixth, thirteenth, sixteenth, seventeenth and nineteenth
20 causes of action only involved paragraph 7D of the Settlement
21 Agreement. (See plaintiff's Exhibits C and D to Request for
22 Judicial Notice.) Defendant does not dispute that "paragraphs 4A
23 and 4B concern an appeal which has already become final, and as a to
24 which no rights, duties or obligations could be enforced in the
25 future." (See plaintiff's Separate Statement of Undisputed Facts,
26 Number 3) The Order of Permanent Injunction did not find violations
27 of paragraphs 7I and 18E. (See plaintiff's Request for Judicial
28 Notice, Exhibit E, p. 2, ¶4.);

1 2. Plaintiff's motion is sever is GRANTED. The Fraudulent
2 Conveyance Action (original Marin County Superior Court Case No.
3 157680) is severed from the Breach of Contract Action (original
4 Marin County Superior Court Case No. 152229, also Los Angeles
5 Superior Court Case No. BC 052395). Further, all activity in the
6 Fraudulent Conveyance Action is STAYED during the pendency of
7 Armstrong's bankruptcy case;

8 3. The first, second, third, fifth, seventh, eighth, ninth,
9 tenth, eleventh, twelfth, fourteenth, fifteenth and eighteenth
10 causes of action of plaintiff's Second Amended Complaint for breach
11 of contract are DISMISSED without prejudice, pursuant to C.C.P.
12 §581(c);

13 4. The Clerk of the Court is directed to ENTER FINAL JUDGMENT
14 in favor of plaintiff in accordance with the Orders of Summary
15 Adjudication and Permanent Injunction attached hereto as Exhibits A,
16 B and C;

17 5. Plaintiff, Church of Scientology International, is
18 ADJUDICATED the prevailing party in this action, pursuant to Civil
19 Code Section 1717, and is awarded its attorney's fees and costs
20 pursuant to that section and the contract between the parties.

21

22 Dated: 1-24, 1996

GARY W. THOMAS

23

GARY W. THOMAS
JUDGE OF THE SUPERIOR COURT

24

25 Submitted by:

26 Laurie Bartilson
27 MOXON & BARTILSON

28

28

1 WILSON, RYAN & CAMPILONGO

2 BY: Andrew H. Wilson
3 Andrew H. Wilson

4 Attorneys for Plaintiff
5 CHURCH OF SCIENTOLOGY
INTERNATIONAL

6 APPROVED AS TO FORM:

7
8 By: _____
Ford Greene, Esq.
9 HUB LAW OFFICES
Attorney for Defendants
10 GERALD ARMSTRONG and THE GERALD
ARMSTRONG CORPORATION

11
12 By: _____
Michael Walton, Esq.
13 Attorney for Defendants MICHAEL
WALTON and SOLINA WALTON

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 WILSON, RYAN & CAMPILONGO

2 MOXON & BARTILSON

3

4 By: _____
Laurie J. Bartilson

5 Attorneys for Plaintiff
6 CHURCH OF SCIENTOLOGY
INTERNATIONAL

7 APPROVED AS TO FORM:

8

9 By: _____
Ford Greene, Esq.

10 HUB LAW OFFICES
11 Attorney for Defendants
GERALD ARMSTRONG and THE GERALD
12 ARMSTRONG CORPORATION

12

13

14 By: _____
Michael Walton, Esq.

15 Attorney for Defendants MICHAEL
WALTON and SOLINA WALTON

16

17

18

19

20

21

22

23

24

25

26

27

28

EXHIBIT A

LAW & MOTION, CIVIL CALENDAR

RULINGS

TIME: 9:00

DATE: 1/27/95

DEPT: 1

JUDGE: GARY W. THOMAS

REPORTER: E. PASSARIS

CLERK: J. BENASSINI

CASE NO: 157680

TITLE OF ACTION: CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

THE MOTION OF PLAINTIFF FOR SUMMARY ADJUDICATION OF ISSUES IS GRANTED AS TO THE FOURTH AND SIXTH CAUSES OF ACTION AND DENIED AS TO THE ELEVENTH CAUSE OF ACTION.

AS TO ALL CAUSES OF ACTION, DEFENDANT FAILS TO RAISE A TRIABLE ISSUE AS TO WHETHER THE LIQUIDATED DAMAGES PROVISION IS INVALID. DEFENDANT RELIES ON THE LAW AS IT EXISTED PRIOR TO JULY 1, 1978. (SEE UNITED SAV. & LOAN ASSN. V. REEDER DEV. CORP. (1976) 57 CAL.APP.3D 282 AND EARLIER VERSIONS OF CIV. CODE, §§ 1670 AND 1671.) THE LAW NOW PRESUMES THAT LIQUIDATED DAMAGES PROVISIONS ARE "VALID UNLESS THE PARTY SEEKING TO INVALIDATE THE PROVISION ESTABLISHES THAT THE PROVISION WAS UNREASONABLE UNDER THE CIRCUMSTANCES EXISTING AT THE TIME THE CONTRACT WAS MADE." (CIV. CODE, § 1671, SUBD. (b).) DEFENDANT'S EVIDENCE IS NOT SUFFICIENT TO RAISE A TRIABLE ISSUE IN THAT REGARD. ALTHOUGH DEFENDANT STATES IN HIS DECLARATION THAT HE WAS NOT INVOLVED IN NEGOTIATING THE PROVISION (SEE D'S EX. 1, ¶12), HE GOES ON TO STATE THAT HE DISCUSSED THE PROVISION WITH TWO ATTORNEYS BEFORE SIGNING THE AGREEMENT. (ID., ¶¶12-13.) THUS, HE CLEARLY KNEW OF THE PROVISION YET CHOSE TO SIGN IT. HE HAS NOT SHOWN THAT HE HAD UNEQUAL BARGAINING POWER OR THAT HE MADE ANY EFFORTS TO BARGAIN OR NEGOTIATE WITH RESPECT TO THE PROVISION. (SEE H. S. PERLIN CO. V. MORSE SIGNAL DEVICES (1989) 209 CAL.APP.3D 1289.) DEFENDANT NEXT STATES THAT PLAINTIFF'S ACTUAL DAMAGES ARE ZERO. (D'S EX. 1, ¶12.) HOWEVER, "THE AMOUNT OF DAMAGES ACTUALLY SUFFERED HAS NO BEARING ON THE VALIDITY OF THE LIQUIDATED DAMAGES PROVISION..." (SEE LAW REVISION COMMISSION COMMENT TO § 1671.) FINALLY, DEFENDANT POINTS TO THE FACT THAT OTHER SETTLEMENT AGREEMENTS CONTAIN A \$10,000 LIQUIDATED DAMAGES PROVISION. (SEE D'S EXS. 2C AND 2D.) THIS ALONE IS NOT SUFFICIENT TO RAISE A TRIABLE ISSUE IN THAT DEFENDANT HAS NOT SHOWN THAT CIRCUMSTANCES DID NOT CHANGE BETWEEN 12/86 AND 4/87 AND THAT THOSE SETTLING PARTIES STAND IN THE SAME OR SIMILAR POSITION TO DEFENDANT (I.E., THAT THEY WERE AS HIGH UP IN THE ORGANIZATION AND COULD CAUSE AS MUCH DAMAGE BY SPEAKING OUT AGAINST PLAINTIFF OR THAT THEY HAVE/HAD ACCESS TO AS MUCH INFORMATION AS DEFENDANT).

P002/018

TO 914.595409381418*

01-17-96 01:35PM

RULINGS

TIME: 9:00

DATE: 1/27/95

DEPT: 1

JUDGE: GARY W. THOMAS

REPORTER: E. PASSARIS

CLERK: J. BENASSINI

CASE NO: 157680

TITLE OF ACTION: CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

DEFENDANT ALSO HAS NOT RAISED A TRIABLE ISSUE REGARDING DURESS. DEFENDANT'S OWN DECLARATION SHOWS HE DID NOT EXECUTE THE AGREEMENT UNDER DURESS IN THAT IT SHOWS THAT HE CAREFULLY WEIGHED HIS OPTIONS. (SEE D'S EX. 1, ¶10.) IT CERTAINLY DOES NOT SHOW THAT HE DID SOMETHING AGAINST HIS WILL OR HAD "NO REASONABLE ALTERNATIVE TO SUCCUMBING." (SEE *IN RE MARRIAGE OF BALTINS* (1989) 212 CAL.APP.3D 66, 84.) IN ADDITION, DEFENDANT IS RELYING ON THE CONDUCT OF A THIRD PARTY (FLYNN) TO ESTABLISH DURESS, YET HE SETS FORTH NO FACT OR EVIDENCE IN HIS SEPARATE STATEMENT SHOWING THAT PLAINTIFF HAD REASON TO KNOW OF THE DURESS. (SEE *LEEPER V. BELTRAMI* (1959) 53 CAL.2D 195, 206.)

AS TO THE FOURTH CAUSE OF ACTION, CONTRARY TO DEFENDANT'S ARGUMENT, THE SUBJECT DECLARATION DOES MORE THAN MERELY AUTHENTICATE DOCUMENTS. (SEE P'S EX. 1(A)(11), ¶¶1-3.) THE COURT FINDS THAT THE DECLARATION CONSTITUTES A DISCLOSURE OF DEFENDANT'S "EXPERIENCES WITH" PLAINTIFF OR "KNOWLEDGE OR INFORMATION" CONCERNING PLAINTIFF AND HUBBARD. (SEE P'S EX. 1B, ¶7D.) DEFENDANT FAILS TO RAISE A TRIABLE ISSUE REGARDING OBSTRUCTION OF JUSTICE/ SUPPRESSION OF EVIDENCE. THE SETTLEMENT AGREEMENT EXPRESSLY DOES NOT PROHIBIT DEFENDANT FROM DISCLOSING INFORMATION PURSUANT TO SUBPOENA OR OTHER LEGAL PROCESS. (SEE P'S EX. 1B, ¶7H; CONTRAST WITH PEN. CODE, §§ 136.1 AND 138, *WILLIAMSON V. SUPERIOR COURT* (1978) 21 CAL.3D 829, *PEOPLE V. PIC'L* (1982) 31 CAL.3D 731.) NOR IS PLAINTIFF IN THIS CAUSE OF ACTION SEEKING TO PROHIBIT DISCLOSURE TO GOVERNMENT AGENCIES CONDUCTING INVESTIGATIONS PURSUANT TO STATUTORY OBLIGATIONS. (CONTRAST WITH *MARY R. V. B. & R. CORP.* (1983) 149 CAL.APP.3D 308 AND *ALLEN V. JORDANOS' INC.* (1975) 52 CAL.APP.3D 160.) EVEN IF A PORTION OF THE AGREEMENT COULD BE CONSTRUED TO SO PROHIBIT (SEE, E.G., ¶10), PLAINTIFF IS NOT RELYING ON THAT SECTION. NOR HAS DEFENDANT SHOWN THAT THE PROVISION IS SO SUBSTANTIAL AS TO RENDER THE ENTIRE CONTRACT ILLEGAL. (CONTRAST WITH *ALLEN*, SUPRA, 52 CAL.APP.3D AT 166.)

P003/018

TO 9141595409381418x

01-17-96 01:35PM

SUPERIOR COURT, MARIN COUNTY, CALIFORNIA
LAW & MOTION, CIVIL CALENDAR
RULINGS

PAGE: 4-A

TIME: 9:00

DATE: 1/27/95

DEPT: 1

JUDGE: GARY W. THOMAS

REPORTER: E. PASSARIS

CLERK: J. BENASSINI

CASE NO: 157680

TITLE OF ACTION: CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

AS TO THE SIXTH CAUSE OF ACTION, DEFENDANT FAILS TO RAISE A TRIABLE ISSUE REGARDING THE CNN INTERVIEW. DEFENDANT ADMITTED IN HIS DEPOSITION THAT HIS CONVERSATION WITH CNN INVOLVED KNOWLEDGE HE HAD GAINED BECAUSE OF HIS YEARS OF EXPERIENCE WITH THE ORGANIZATION (P'S EX. 1A AT 344:1-4), THUS REFUTING HIS ARGUMENTS THAT HIS STATEMENT WAS BASED ON KNOWLEDGE ACQUIRED AFTER THE SETTLEMENT AGREEMENT AND THAT HIS INTERVIEW WAS DIRECTLY RELATED TO THE INSTANT LITIGATION. IN ADDITION, PLAINTIFF SET FORTH NO FACTS OR EVIDENCE IN HIS SEPARATE STATEMENT SHOWING THAT HE COULD DISCLOSE INFORMATION ACQUIRED AFTER EXECUTION OF THE SETTLEMENT AGREEMENT OR THAT HE COULD MAKE SUCH STATEMENTS IN THE CONTEXT OF FUTURE LITIGATION. FINALLY, THERE IS NOTHING IN THE STATEMENT WHICH TIES IT TO EITHER OF THE ARGUMENTS RAISED BY DEFENDANT. DEFENDANT ALSO FAILS TO RAISE A TRIABLE ISSUE REGARDING THE AMERICAN LAWYER INTERVIEW. DEFENDANT'S CLAIM THAT HE ONLY DISCUSSED THE INSTANT LITIGATION IS REFUTED BY HIS OWN ADMISSION THAT HE DISCUSSED "THE PLIGHT OF THE ORGANIZATION [AND] WHAT IT WOULD TAKE TO END ITS LEGAL TROUBLES." (D'S EX. 1D AT 352:15-19.) DEFENDANT'S CLAIM THAT HIS DISCUSSION INVOLVED "NOTHING MORE THAN WHAT JUDGE BRECKENRIDGE STATED IN HIS DECISION IN ARMSTRONG I" IS REFUTED BY HIS ADMISSION THAT HE DID NOT RECALL DISCUSSING THE BRECKENRIDGE OPINION WITH THE REPORTER. (D'S EX. 1D AT 358:20-23.) FURTHER, DEFENDANT POINTS TO NOTHING IN JUDGE BRECKENRIDGE'S OPINION WHICH COINCIDES TO THOSE MATTERS DISCUSSED BY DEFENDANT.

AS TO THE ELEVENTH CAUSE OF ACTION, PLAINTIFF HAS NOT SHOWN THAT DEFENDANT VIOLATED PARAGRAPH 7D OF THE SETTLEMENT AGREEMENT. THE DECLARATION RELIED ON BY PLAINTIFF (P'S EX. 1(A)(B)) DOES NOT DISCLOSE DEFENDANT'S "EXPERIENCES WITH THE CHURCH OF SCIENTOLOGY [OR] ANY KNOWLEDGE OR INFORMATION HE MAY HAVE CONCERNING THE CHURCH OF SCIENTOLOGY..."

01-17-96 01:35PM
TO 9141595409381418x
F.03
1037
SUPERIOR COURT

SUPERIOR COURT, MARCH COUNTY, CALIFORNIA
LAW & MOTION, CIVIL CALENDAR
RULINGS

PAGE: 4-A

TIME: 9:00

DATE: 1/27/95

DEPT: 1

JUDGE: GARY W. THOMAS

REPORTER: E. PASSARIS

CLERK: J. BENASSINI

CASE NO: 157680

TITLE OF ACTION: CHURCH OF SCIENTOLOGY V. GERALD ARMSTRONG

DEFENDANT ARMSTRONG FILED A SUPPLEMENTAL DECLARATION AND EVIDENCE SIX DAYS LATE. THE COURT DID NOT PERMIT SAME. THE PLAINTIFF'S MOTION TO STRIKE THE SUPPLEMENTAL PAPERS FROM THE FILE IS GRANTED. PLAINTIFF'S REQUEST FOR SANCTIONS IS GRANTED. DEFENDANTS KNEW THE LATENESS OF THE FILING, SOME SIX DAYS. THERE WAS AMPLE TIME TO SEEK THE COURT'S PERMISSION FOR A LATE FILING. PERMISSION WAS NOT SOUGHT. SANCTIONS REQUESTED BY PLAINTIFF PURSUANT TO SECTION 437C(i) ARE GRANTED IN THE AMOUNT OF \$75, AS THE COURT FINDS THIS SIX-DAYS LATE FILING TO BE IN BAD FAITH.

TOTAL P. 04

PO05/018

TO 91415954093814.8x

01-17-96 01:35PM

4221071 P.04

RECEIVED SUPERIOR COURT

JAN 27 1995

FILED

OCT 17 1995

HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy

1 Andrew H. Wilson, SBN 063209
2 WILSON, RYAN & CAMPILONGO
3 115 Sansome Street
4 Fourth Floor
5 San Francisco, California 94104
6 (415) 391-3900
7 Telefax: (415) 954-0938

8 Lauria J. Bartilson, SBN 139220
9 MOKON & BARTILSON
10 6255 Sunset Boulevard, Suite 2000
11 Hollywood, CA 90028
12 (213) 960-1936
13 Telefax: (213) 953-3351

14 Attorneys for Plaintiff
15 CHURCH OF SCIENTOLOGY
16 INTERNATIONAL

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA

18 FOR THE COUNTY OF MARIN

19 CHURCH OF SCIENTOLOGY)
20 INTERNATIONAL, a California not-)
21 for-profit religious corporation,)

CASE NO. BC 157680

[PROPOSED]

22 Plaintiff,

) ORDER OF SUMMARY JUDGMENT
) AS TO THE THIRTEENTH,
) SIXTEENTH, SEVENTEENTH, AND
) NINETEENTH CAUSES OF ACTION

23 vs.

) DATE: October 6, 1995
) TIME: 9:00 a.m.
) DEPT: 1

24 GERALD ARMSTRONG; DOES 1 through)
25 25, inclusive,)

) TRIAL DATE: Vacated

26 Defendants.)

27 This matter came on for hearing on October 6, 1995, on
28 motion of plaintiff Church of Scientology International ("the
29 Church") for Summary Adjudication of the Thirteenth, Sixteenth,
Seventeenth, and Nineteenth Causes of Action of the Second
Amended Complaint. Plaintiff Church of Scientology International

1 appeared by its attorneys, Andrew H. Wilson of Wilson, Ryan &
2 Campilongo and Laurie J. Bartilson of Bowles & Moxon, defendant
3 Armstrong appeared by his attorney, Ford Greene. Having read and
4 considered the moving and opposing papers, and the evidence and
5 arguments presented therein and at the hearing, and good cause
6 appearing:

7 IT IS ORDERED:

8 1. The Motion of Plaintiff for Summary Adjudication of
9 Issues as to the Thirteenth, Sixteenth, Seventeenth, and
10 Nineteenth Causes of Action of the Second Amended Complaint is
11 GRANTED in favor of Plaintiff, Church of Scientology
12 International, and against Defendant, Gerald Armstrong, in the
13 amount of \$200,000.

14 Plaintiff has met its burden of showing that defendant
15 breached the settlement agreement and that it is entitled to
16 liquidated damages of \$50,000 for each breach. Defendant has
17 failed to raise a triable issue as to any of the causes of
18 action, as follows:

19 INVALIDITY OF LIQUIDATED DAMAGES PROVISION: Defendant's
20 evidence regarding his attorneys' failure to represent his
21 interests (see Facts 43 and 68) is hearsay and/or not based on
22 personal knowledge. The opinion of defendant's attorney as to
23 the validity of the provision (see, e.g., Facts 52-54, 57-60) is
24 irrelevant and hearsay. The fact that two other clients signed a
25 settlement agreement containing the same liquidated damages
26 amount (see Facts 55-56 and 63-64) does not raise an inference
27 that the provision was unreasonable. Defendant's evidence is
28 insufficient to raise a reasonable inference of unequal

1 bargaining power (no personal knowledge shown that plaintiff, as
2 opposed to Flynn, positioned defendant as a "deal breaker";
3 Flynn's statements hearsay; no personal knowledge shown of
4 plaintiff's wealth; wealth alone does not raise inference of
5 unequal bargaining power since no showing defendant desperate for
6 money and had to accept on plaintiff's terms). Defendant's
7 evidence does not raise an inference that plaintiff's calculation
8 is "unfathomable" (Fourteenth Cause of Action seeks \$50,000 for
9 each of 18 letters; Nineteenth Cause of Action is based only on
10 declarations, not on other contacts between defendant and
11 attorney/other clients). Defendant fails to establish how he
12 knows plaintiff had not been injured by his statements at the
13 time of settlement.

14 DURESS: Flynn's statements to defendant are hearsay. (See,
15 e.g., D's Facts 1C and 1D.) Further, defendant has not shown
16 that plaintiff was aware of Flynn's purported duress of
17 defendant. (See *Leeper v. Baltrami* (1959) 53 Cal.2d 195, 206.)
18 Contrary to defendant's statement about duress, "careful weighing
19 of options" is completely inconsistent with an absence "of the
20 free exercise of his will power" or his having "no reasonable
21 alternative to succumbing." (See *Philippine Export & Foreign
22 Loan Guarantee Corp. v. Chuidian* (1990) 218 Cal.App.3D 1058,
23 1078; *In Re Marriage of Baltins* (1989) 212 Cal.App.3D 66, 84.)

24 FRAUD: Flynn's statements to defendant (see Fact 78) are
25 hearsay. The Court finds that the portions of the agreement
26 cited by defendant (see Facts 79 and 80) do not establish a
27 mutual confidentiality requirement. Paragraph 7(I) only
28 prohibits the parties from disclosing information in litigation

1 between the parties; paragraph 18(D) only prohibits disclosure of
 2 the terms of the settlement; defendant has not shown that
 3 plaintiff did either of those things. Further, "[s]omething more
 4 than nonperformance is required to prove the defendant's
 5 intention not to perform his promise." (*Tenzar v. Superscope,*
 6 *Inc.* (1985) 39 Cal.3d 18, 30-31).

7 NO SPECIFIC PERFORMANCE, BREACH OF EXPRESS AND IMPLIED
 8 COVENANT: Defendant relies on the purported mutuality
 9 requirement, which he has failed to establish.

10 FIRST AMENDMENT: First Amendment rights may be waived by
 11 contract. (See *ITT Telecom Products Corp. v. Dooley* (1989) 214
 12 Cal.App.3D 307, 319.)

13 2. The plaintiff has asked that the exhibits which were
 14 previously ordered sealed be stricken as they are trade secrets,
 15 irrelevant to this motion. This request is GRANTED. They are
 16 not relevant. Further, they were filed by Mr. Armstrong in pro
 17 per when he is, in fact, represented by counsel.

18 Dated: October __, 1995

19 OCT 17 1995

20 GARY W. THOMAS

21 GARY W. THOMAS
 22 Judge of the Superior Court

23 Approved as to form:
 24
 25

26 Ford Greene
 27 Attorney for Defendants Gerald
 28 Armstrong and the Gerald Armstrong
 Corporation

EXHIBIT C

FILED

OCT 17 1995

HOWARD HANSON
MARIN COUNTY CLERK
by J. Steele, Deputy

1 Andrew H. Wilson, SBN 063209
2 WILSON, RYAN & CAMPILONGO
3 115 Sansome Street
4 Fourth Floor
5 San Francisco, California 94104
6 (415) 391-3900
7 Telefax: (415) 954-0938

8 Laurie J. Bartilson, SBN 139220
9 MOXON & BARTILSON
10 6255 Sunset Boulevard, Suite 2000
11 Hollywood, CA 90028
12 (213) 960-1938
13 Telefax: (213) 953-3351

14 Attorneys for Plaintiff
15 CHURCH OF SCIENTOLOGY
16 INTERNATIONAL

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF MARIN

19 CHURCH OF SCIENTOLOGY)
20 INTERNATIONAL, a California not-for-profit)
21 religious corporation,)

22 Plaintiff,)

23 vs.)

24 GERALD ARMSTRONG; DOES 1 through)
25 25, Inclusive,)

26 Defendants.)

CASE NO. BC 157680

~~PROPOSED~~

GWT, 10/17/95

ORDER OF PERMANENT
INJUNCTION

DATE: October 6, 1995
TIME: 9:00 a.m.
DEPT: 1

TRIAL DATE: Vacated

27 This matter came on for hearing on October 6, 1995, on motion of plaintiff
28 Church of Scientology International ("the Church") for Summary Adjudication of
the Twentieth Cause of Action of the Second Amended Complaint. Plaintiff
Church of Scientology International appeared by its attorneys, Andrew H. Wilson
of Wilson, Ryan & Campilongo and Laurie J. Bartilson of Bowles & Moxon,

1 defendant Armstrong appeared by his attorney, Ford Greene. Having read and
2 considered the moving and opposing papers, and the evidence and arguments
3 presented therein and at the hearing, and good cause appearing:

4 IT IS ORDERED:

5 The Church's motion for summary adjudication of the twentieth cause of
6 action of the Second Amended Complaint is GRANTED. The Court finds that there
7 is no triable issue of material fact as to any of the following:

8 1. Plaintiff and defendant freely and voluntarily entered into a Mutual
9 Release of All Claims and Settlement Agreement ("Agreement") in December,
10 1986.

11 2. Plaintiff performed all of its obligations pursuant to the Agreement.

12 3. Defendant Armstrong received substantial consideration for the
13 promises which he made in the Agreement.

14 4. Since 1990, defendant Armstrong has repeatedly breached
15 paragraphs 7(D), 7(E), 7(H), 7(G), 10, 18(D) and 20 of the Agreement.

16 5. Between 1991 and the present, Armstrong breached paragraphs 7(G),
17 7(H) and 10 of the Agreement by providing voluntary assistance, exclusive of
18 testimony made pursuant to a valid subpoena, to the following private individuals,
19 each of whom was pressing a claim or engaged in litigation with plaintiff and/or
20 one or more of the designated beneficiaries of the Agreement:

21 * Vicki and Richard Aznaran, anti-Scientology litigants in the case of
22 Vicki Aznaran, et al. v. Church of Scientology International, United States
23 District Court for the Central District of California, Case No. CV 88-1788
24 (JMI) [Sep.St.Nos. 11-16];

25 * Joseph A. Yanny, anti-Scientology litigant in the case of Religious
26 Technology Center et al. v. Joseph Yanny, et al., Los Angeles Superior
27 Court No. C 690211 and Religious Technology Center et al. v. Joseph
28 Yanny, et al., Los Angeles Superior Court No. BC 033035 [Sep.St.Nos. 17-

- 1 201;
- 2 * Malcolm Nothling, anti-Scientology litigant in the matter between
- 3 Malcolm Nothling and the Church of Scientology in South Africa, Adi Codd,
- 4 Diane Kemp, Glen Rollins; Supreme Court of South Africa (Witwatzbrand
- 5 Local Division) Case No. 19221/88. [Sep.St.Nos. 21-24];
- 6 * Reader's Digest Corporation, anti-Scientology litigant in the case of
- 7 Church of Scientology of Lausanne vs. Kiosk AG, Basel, Switzerland
- 8 [Sep.St.Nos. 25-26];
- 9 * Richard Behar, anti-Scientology litigant in the case of Church of
- 10 Scientology International v. Time Warner, Inc.; Time Inc. Magazine Company
- 11 and Richard Behar, United States District Court, Southern District of New
- 12 York, Case No. 92 Civ. 3024 PKL [Sep.St.Nos. 27-28];
- 13 * Steven Hunziker, anti-Scientology litigant in the case of Hunziker v.
- 14 Applied Materials, Inc., Santa Clara Superior Court Case No. 692629
- 15 [Sep.St.Nos. 29-33];
- 16 * David Mayo, anti-Scientology litigant in the case of Religious
- 17 Technology Center v. Robin Scott, et al., United States District Court for the
- 18 Central District of California, Case No. 85-711 [Sep.St.Nos. 34-35];
- 19 * Cult Awareness Network, anti-Scientology litigant in the case of Cult
- 20 Awareness Network v. Church of Scientology International, et al., Circuit
- 21 Court of Cook County, Illinois, No. 94L804 [Sep.St.Nos. 38-39];
- 22 * Lawrence Wollersheim, anti-Scientology litigant in the cases of
- 23 Lawrence Wollersheim v. Church of Scientology of California, Los Angeles
- 24 Superior Court Number C332027 and Church of Scientology of California v.
- 25 Lawrence Wollersheim, Los Angeles Superior Court Number BC074815
- 26 [Sep.St.Nos. 40-42];
- 27 * Ronald Lawley, anti-Scientology litigant in the cases of Religious
- 28 Technology Center, et al. vs. Robin Scott, et al., U.S. District Court, Central

1 District of California, Case No. 85-711 MRP(Bx); Matter Between Church of
 2 Scientology Advanced Organization Saint Hill Europe and Africa, and Robin
 3 Scott, Ron Lawley, Morag Bellmaine, Stephen Bisbey in the High Court of
 4 Justice Queen's Bench Division, Case 1984 S No. 1675; and Matter
 5 Between Church of Scientology Religious Education College Inc., and Nancy
 6 Carter, Ron Lawley, Steven Bisbey, in the High Court of Justice Queen's
 7 Bench Division, Case 1986 C No. 12230 [Sep.St.Nos. 43-44];

8 * Uwe Geertz and Steven Fishman, anti-Scientology litigants in the case
 9 of Church of Scientology International v. Steven Fishman, et al., United
 10 States District Court for the Central District of California Number 91-6426
 11 HLH(Tx) [Sep.St.Nos. 45-46];

12 * Tilly Good, a claimant against the Church of Scientology, Mission of
 13 Sacramento Valley [Sep.St.Nos. 36-37];

14 * Denise Cantin, a claimant against the Church of Scientology of Orange
 15 County; Church of Scientology of Boston; and Church of Scientology, Flag
 16 Service Organization [Sep.St.Nos. 36-37]; and

17 * Ed Roberts, a claimant against the Church of Scientology of
 18 Stevens Creek [Sep.St.Nos. 36-37].

19 6. Between 1992 and the present, Armstrong breached paragraph 7(D)
 20 of the Agreement by contacting media representatives, granting interviews and
 21 attempting to assist media representatives in the preparation for publication or
 22 broadcast magazine articles, newspaper articles, books, radio and television
 23 programs, about or concerning the Church and/or other persons and entities
 24 referred to in paragraph 1 of the Agreement. These media representatives
 25 included:

26 * Cable Network News: reporter Don Knapp, in March, 1992
 27 [Sep.St.Nos. 47-48];

28 * American Lawyer Magazine: reporter Bill Horne, in March, 1992

- 1 [Sep.St.No. 49];
- 2 * Los Angeles Times: reporter Bob Welkos, in May, 1992; and reporter
- 3 Joel Sappell, in June, 1993 [Sep.St.Nos. 50-51];
- 4 * CAN Video Interview, with anti-Scientologists "Spanky" Taylor and
- 5 Jerry Whitfield, in November, 1992 [Sep.St.No. 52];
- 6 * KFAX Radio: interview planned but prevented in April, 1993
- 7 [Sep.St.No. 53];
- 8 * Newsweek Magazine: reporter Charles Fleming, in June, 1993 and
- 9 August, 1993 [Sep.St.No. 54-56];
- 10 * Daily Journal: reporter MIKE Tipping, in June, 1993 [Sep.St.No. 57];
- 11 * Time Magazine: reporter Richard Behar, in March, 1992 and in June,
- 12 1993 [Sep.St.Nos. 58-59];
- 13 * San Francisco Recorder: reporter Jennifer Cohen, in August, 1993
- 14 [Sep.St.No. 60];
- 15 * E! Entertainment Network: reporter Greg Agnew, in August, 1993
- 16 [Sep.St.No. 61];
- 17 * WORD Radio: Pittsburgh, Pennsylvania, interviewed in the fall of 1993
- 18 [Sep.St.No. 62];
- 19 * St. Petersburg Times: St. Petersburg, Florida, reporter Wayne Garcia,
- 20 in the fall of 1993 [Sep.St.No. 63];
- 21 * Premiere Magazine: letter to the editor, in October, 1993 [Sep.St.No.
- 22 64];
- 23 * Mirror-Group Newspapers: United Kingdom, in May, 1994
- 24 [Sep.St.No. 65];
- 25 * Gauntlet Magazine: New York, New York, reporter Rick Cusick in
- 26 June, 1994 [Sep.St.No. 66];
- 27 * Pacific Sun Newspaper: reporter Rick Sine, in June and July, 1994
- 28 [Sep.St.No. 67];

1 * Disney Cable: reporter Marsha Nix, in August, 1994 [Sep.St.No. 68];
2 and

3 * Tom Voltz: Swiss author writing a book about Scientology, in
4 October, 1994 [Sep.St.No. 69].

5 7. Between 1992 and the present, Armstrong breached paragraph 7(D)
6 of the Agreement by preparing and distributing at least three manuscripts
7 concerning his claimed experiences in and with Scientology, including a treatment
8 for a screenplay which he intends to turn into a film [Sep.St.Nos.70-71].

9 8. Between 1991 and the present, Armstrong further breached
10 paragraph 7(D) of the Agreement by disclosing his claimed experiences in Scientology.
11 Scientology to each of the following persons or groups, not previously identified:
12 Robert Lobsinger [Sep.St.No. 72]; the New York Times [Sep.St.No. 73]; Toby
13 Plevin, Stuart Culter, Anthony Laing, Kent Burtner, and Margaret Singer
14 [Sep.St.No. 74]; Priscilla Coates [Sep.St.No. 75]; Omar Garrison [Sep.St.No. 76];
15 Vaughn and Stacy Young [Sep.St.No. 77]; a Stanford University psychology class
16 [Sep.St.No. 78]; attendees at the 1992 Cult Awareness Network Convention
17 [Sep.St.No. 79]; and Hana Whitfield [Sep.St.No. 80].

18 9. Defendant Armstrong has reiterated numerous times that he intends
19 to continuing breaching the Agreement unless he is ordered by the Court to cease
20 and desist [Sep.St.Nos. 87-97].

21 10. Plaintiff's legal remedies are inadequate insofar as the scope of the
22 relief ordered below is concerned. Tamarind Lithography Workshop, Inc. v. Sanders
23 (1983) 143 Cal.App.3d 571, 577-578, 193 Cal.Rptr. 409, 413.

24 Accordingly, the Court finds that entry of a permanent injunction in this
25 action is necessary in this action because pecuniary compensation could not afford
26 the Church adequate relief, and the restraint is necessary in order to prevent a
27 multiplicity of actions for breach of contract. Civil Code § 3422(1),(3). A ORDER
28 of injunction is therefore entered as follows:

1 Defendant Gerald Armstrong, his agents, employees, and persons acting in
2 concert or conspiracy with him are restrained and enjoined from doing directly or
3 indirectly any of the following:

4 1. Voluntarily assisting any person (not a governmental organ or
5 entity) intending to make, intending to press, intending to arbitrate, or
6 intending to litigate a claim, regarding such claim or regarding pressing,
7 arbitrating, or litigating it, against any of the following persons or entities:

- 8 o The Church of Scientology International, its officers, directors, agents,
9 representatives, employees, volunteers, successors, assigns and legal
10 counsel;
- 11 o The Church of Scientology of California, its officers, directors, agents,
12 representatives, employees, volunteers, successors, assigns and legal
13 counsel;
- 14 o Religious Technology Center, its officers, directors, agents,
15 representatives, employees, volunteers, successors, assigns and legal
16 counsel;
- 17 o The Church of Spiritual Technology, its officers, directors, agents,
18 representatives, employees, volunteers, successors, assigns and legal
19 counsel;
- 20 o All Scientology and Scientology affiliated Churches, organizations and
21 entities, and their officers, directors, agents, representatives,
22 employees, volunteers, successors, assigns and legal counsel;
- 23 o Author Services, Inc., its officers, directors, agents, representatives,
24 employees, volunteers, successors, assigns and legal counsel;
- 25 o The Estate of L. Ron Hubbard, its executor, beneficiaries, heirs,
26 representatives, and legal counsel; and/or
- 27 o Mary Sue Hubbard;

28 (Hereinafter referred to collectively as "the Beneficiaries");

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

2. Voluntarily assisting any person (not a governmental organ or entity) defending a claim, intending to defend a claim, intending to defend an arbitration, or intending to defend any claim being pressed, made, arbitrated or litigated by any of the Beneficiaries, regarding such claim or regarding defending, arbitrating, or litigating against it;

3. Voluntarily assisting any person (not a governmental organ or entity) arbitrating or litigating adversely to any of the Beneficiaries;

4. Facilitating in any manner the creation, publication, broadcast, writing, filming audio recording, video recording, electronic recording or reproduction of any kind of any book, article, film, television program, radio program, treatment, declaration, screenplay or other literary, artistic or documentary work of any kind which discusses, refers to or mentions Scientology, the Church, and/or any of the Beneficiaries;

5. Discussing with anyone, not a member of Armstrong's immediate family or his attorney, Scientology, the Church, and/or any of the Beneficiaries;

In addition, it is ORDERED that, within 20 days of the issuance of this Order, Armstrong shall:

1. Return to the Church any documents which he now has in his possession, custody or control which discuss or concern Scientology, the Church and/or any person or entity referred to in paragraph 1 of the "Mutual Release of All Claims and Settlement Agreement" of December, 1986, other than documents which have been filed in this litigation.

It is further ORDERED that during the pendency of this litigation, documents which have been filed in this litigation may be retained by Armstrong's counsel. These documents are to remain sealed, in the possession of Mr. Greene or any successor counsel, and may not be distributed to third parties. At the conclusion of the instant litigation, it is ORDERED that all documents from this case in

1 counsel's possession which do not comprise counsel's work product will be
2 delivered to counsel for plaintiff. Counsel's work product may be retained by
3 Armstrong's counsel.
4

5 DATED: _____, 1995

6 OCT 17 1995

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

...T = MENCAR
THE HONORABLE GARY W. THOMAS
SUPERIOR COURT JUDGE

WILSON, RYAN & CAMPILONGO
115 Sansome Street, Suite 400
San Francisco, California 94104

PROOF OF SERVICE

I declare that I am employed in the City and County of San Francisco, California.

I am over the age of eighteen years and not a party to the within entitled action. My business address is 115 Sansome Street, Suite 400, San Francisco, California.

On February 2, 1996, I caused the attached copy of **NOTICE OF ENTRY OF ORDER RE MOTION OF PLAINTIFF FOR SUMMARY ADJUDICATION OF ISSUES** on the following in said cause, by placing for deposit with the United States Postal Service on this day in the ordinary course of business, true copies thereof enclosed in sealed envelopes. The envelopes were addressed as follows:

Gerald Armstrong
715 Sir Francis Drake Blvd.
San Anselmo, California 94960

Michael Walton
700 Larkspur Landing Circle, #120
Larkspur, CA 94939

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.
Executed at San Francisco, California on February 2, 1996.



Colleen Y. Palmer